

REMARKS

Claim 21 has been canceled without prejudice. None of the claims have been amended. Claims 17-20 and 22 are still pending in the present application. Reexamination and allowance of the pending claims are respectfully requested.

Stewart+Bates

Claims 17-18 and 20-22 stand rejected under 35 USC 103(a) as being unpatentable over U.K. Patent No. 2340516 to Stewart ("Stewart") in view of USP 5,437,069 to Bates ("Bates"). This rejection is respectfully traversed.

Claim 17 recites that the angled panel is coupled to the vertical panel at an angle with respect to the vertical panel when the structure is in a fully erected position. The Examiner acknowledges that Stewart does not disclose a vertical panel when the structure is in a fully erected position, but has cited Bates as disclosing a rear panel 8 that is generally vertical when the pillow prop apparatus of Bates is deployed.

Applicant respectfully submits that this combination of Stewart and Bates is improper for the following reasons:

1. Stewart cannot be modified to have a vertical panel; and
2. Bates is non-analogous art.

First, the tent structure 2 in Stewart has two non-vertical panels 4 and 6 that are maintained in a fixed spaced-apart and angled relationship by rigid retaining members 50, 52 that extend across the width of the base 32. The Examiner asserts that the members 50, 52 allow for adjustment of the space between the bottom of the panels 4 and 6 so that the angle between the panels 4 and 6 can be adjusted. However, Stewart does not teach or suggest this. In fact, Stewart expressly discloses the function of the members 50, 52 as providing "added rigidity to the structure as a whole ...". See bottom of page 6 of Stewart.

The provision and orientation of the members 50, 52 make it impossible for one of the panels 4 or 6 to be oriented vertically. For one of the panels 4 or 6 to be oriented vertically, the base 32 and its rigid members 50, 52 will have to be raised at an angle with respect to the ground, thereby rendering the entire structure 2 to be inoperative. Specifically, if either panel 4 or 6 were to be oriented vertically, the structure 2 would not be capable of receiving a person inside it. Thus, a person skilled in the art would have absolutely no reason or incentive to try to re-orient the structure 2 in Stewart to have one vertical panel 4 or 6.

Second, Bates is directed to a portable pillow prop that has two rigid panels 6 and 8. These two panels 6 and 8 do not have foldable frame members, and are made of a stiff plastic material (see column 6, lines 47-48). Thus, Bates is not related to the same type of foldable structure as Stewart, so a person skilled in the art would have no incentive to attempt to borrow from Bates' teachings.

More importantly, even if Bates can be considered to be analogous to Stewart (which Applicant disputes), Bates is irrelevant to Stewart because a person skilled in the art can easily see that it would not be possible to re-orient the tent structure 2 in Stewart to make one of the panels 4 or 6 vertical. Therefore, this skilled person would have no reason or incentive to even consider modifying Stewart's tent structure 2, much less considering applying Bates to modify Stewart.

JP + Bates

Claims 17-22 stand rejected under 35 USC 103(a) as being unpatentable over Japanese Patent No. 8-57164 ("JP") in view of Bates. This rejection is respectfully traversed.

The same arguments for Stewart+Bates apply to the combination of JP+Bates. The Examiner again acknowledges that JP does not disclose a vertical panel when the structure is in a fully erected position, but has cited Bates as disclosing a rear panel 8 that is generally vertical when the pillow prop apparatus of Bates is deployed.

Applicant again respectfully submits that this combination of JP and Bates is improper for the following reasons:

1. JP cannot be modified to have a vertical panel; and
2. Bates is non-analogous art.

First, the structure in JP has two non-vertical panels 2 that are maintained in a fixed spaced-apart and angled relationship by a base 8 that extends between the bottom edges of the panels 2. The Examiner asserts that FIG. 4 of JP shows that one of the panels 2 can be positioned vertically. However, FIG. 4 only shows the transition of the panels 2 between the folded position and the fully erected position. In its fully erected position as shown in FIG. 1, with the base 8 fully extended, the structure of JP has two non-vertical panels 2.

FIG. 1 of JP illustrates why it would be impossible for one of the panels 2 to be oriented vertically. For one of the panels 2 to be oriented vertically, the base 8 will have to be raised at an angle with respect to the ground, thereby rendering the entire structure to be inoperative. Specifically, if either panel 2 were to be oriented vertically, the structure

would not be capable of receiving a person inside it. Thus, a person skilled in the art would have absolutely no reason or incentive to try to re-orient the structure in JP to have one vertical panel 2.

Second, Bates is directed to a portable pillow prop that has two rigid panels 6 and 8. These two panels 6 and 8 do not have foldable frame members, and are made of a stiff plastic material (see column 6, lines 47-48). Thus, Bates is not related to the same type of foldable structure as JP, so a person skilled in the art would have no incentive to attempt to borrow from Bates' teachings.

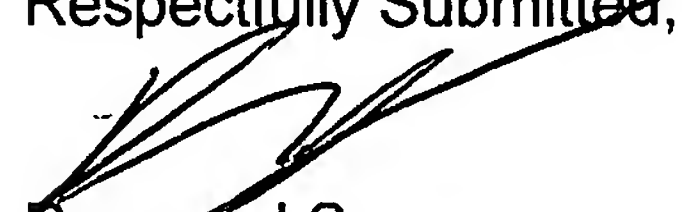
More importantly, even if Bates can be considered to be analogous to JP (which Applicant disputes), Bates is irrelevant to JP because a person skilled in the art can easily see that it would not be possible to re-orient the structure in JP to make one of the panels 2 vertical. Therefore, this skilled person would have no reason or incentive to even consider modifying JP's structure, much less considering applying Bates to modify JP.

One reason why the structures in Stewart and JP cannot be modified to have one vertical panel is because both side panels in Stewart and JP have the same size and shape. As a result, it is not possible for one of the panels to be vertical, because the other panel would have to be suspended from the ground, thereby providing an unstable orientation for the structure. In contrast, the panels 6 and 8 in Bates have different sizes (see column 5, lines 1-8 of Bates), so that it is possible for the panel 8 to be vertical. Therefore, implicit in the Examiner's rejections is an assumption that it would be obvious to modify Stewart and JP to provide their panels with different sizes. However, this assumption is not correct, and is based on impermissible hindsight reconstruction because there is no teaching or suggestion in any of the cited references that any of the structures in Stewart or JP should be modified to provide their panels with different sizes. In fact, Applicant believes that a person skilled in the art would actually find it undesirable to modify the tent structures in Stewart and JP to provide one vertical panel and one angled panel. If one compares the interior space of the tent structures in Stewart and JP with the interior space bordered by the panels 6, 8 and 10 in Bates, one can clearly see that the interior space in Bates is much smaller than the interior space in the Stewart and JP tents. Since space is a very important factor in any tent structure, there is absolutely no good reason why a person skilled in the art would want to modify the tent structures in Stewart and JP to reduce the interior space.

In light of the above, allowance of all pending claims is respectfully requested. The Examiner is invited to telephone the undersigned if there are any informal matters that

can be resolved in a phone conversation, or if the Examiner has any suggestions or ideas that would further advance the prosecution of this case.

Respectfully Submitted,


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Dated: June 8, 2006

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

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Date: June 8, 2006

By: 
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